

## **REMARKS**

Independent Claims 1 and 10, with Claims 3, 5-9 and 11, 13-17, respectively, depending therefrom are pending and remain for consideration.

In the Final Office Action the Examiner rejected Claims 1 and 5-9 under 35 U.S.C. § 103(a) as being unpatentable over McIntyre (4,646,510); claim 3 was rejected as being unpatentable over McIntyre ('510) in view of Raducu (DE 04301010); and claims 10 and 13-17 as being unpatentable over McIntyre ('510) in view of Moretz et al (5,392,467).

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

Claims 1 and 10 recite that the powder-dispensing pouch comprises top and bottom layers of woven fabric with their edges sealed. The Examiner concedes that McIntyre does not possess this structure. Specifically, McIntyre discloses a powder-filled pouch made from "porous tissue or other non-woven web" (column 2, lines 17-19). McIntyre prefers a non-woven web "...so as to minimize the escape of powder during pouch fabrication." (column 1, lines 27-32). McIntyre fills the pouches with moisture-absorbent powder so that when the pouches are used in diapers they absorb moisture (column 4, lines 11-17); there is no disclosure that McIntyre is concerned with dispensing powder.

In order to overcome the lack of a woven fabric, the Examiner arbitrarily concludes that "...since the layers are porous, and woven fabrics are porous by virtue of the nature of a

woven article due to the process of weaving, it would have been obvious to one of ordinary skill in the art to replace the thin tissue or non-woven web taught in McIntyre with a woven (and necessarily porous) fabric that is also fully capable of dispersing a powder...with a reasonable expectation of success.”

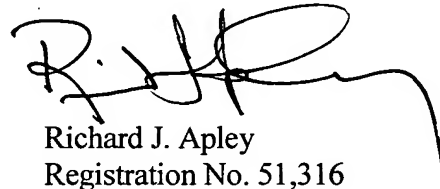
Applicant respectfully traverses this argument and conclusion of obviousness. The Examiner’s position is based upon the assumption that woven and non-woven fabrics are *per se* interchangeable. They are not. Woven fabrics comprise threads going over/under or variations thereof to create a woven fabric. These fabrics have distinct physical characteristic, for example, woven fabrics stretch on the bias when the threads are at 90 degrees to each other. Non-woven fabrics are, as the name suggests, non-woven; they **DO NOT HAVE WOVEN THREADS**. Things made from a non-woven web, as seen in McIntyre’s pouch, are just conglomerations of fibers or sheets of fibrous stuff without fibers. Instead of the conventional woven-manufacturing techniques to obtain a woven fabric, non-woven fabrics are made directly from fibers. This helps non-woven webs get their unique properties NOT POSSIBLE from woven fabrics, for example, breathability with liquid repellency and barrier properties against bacteria. McIntyre specifically uses a non-woven web to form the pouch, thereby allowing moisture into the moisture-absorbent powder and keep the diaper dry. The Examiner assumes that a woven fabric would perform the same function without a teaching or suggestion found in the prior art to support this conclusion. The Examiner’s “reasonable expectation of success” standard has not been demonstrated by the prior art nor by the Examiner’s rejection. The arbitrary conclusion as discussed above fails to properly establish a *prima facie* case of obviousness as dictated by numerous Court decisions and MPEP §§ 2141-2143.03.

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*Art Unit: 3761*

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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RJA:dht